

## Office of the Secretary of the Treasury

## § 29.404

the Act and section 11-1570 of the D.C. Code;

(3) The appeal rights available under section 11022(a) of the Act to claimants whose claim for Federal Benefit Payments is denied in whole or in part; and

(4) The special rules for processing competing claimant cases.

(b) This subpart does not apply to processing collection of debts due to the United States.

### § 29.402 Definitions.

In this subpart—

*Act* means the Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251, 712-731, 756-759, enacted August 5, 1997, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999, Public Law 105-277, 112 Stat. 2681, 2681-530 through 538, 2681-552.

*Beneficiary* means an individual designated by a participant, or by the terms of the Judges Plan, Police and Firefighters Plan, or Teachers Plan, who is or may become entitled to a benefit under those plans.

*Benefits Administrator* means:

(1) During the interim administration period under section 11041 of the Act, the District of Columbia government, or

(2) After the Secretary notifies the District that the Trustee has been directed to carry out the duties and responsibilities required under the contract or determines that the Department shall carry out those functions, the Department, the Trustee selected by the Department under section 11035 of the Act, or any other agent of the Department designated to make initial benefit determinations under the Act.

*Claimant* means any person seeking a benefit for themselves or another under the Judges Plan, Police and Firefighters Plan, or Teachers Plan.

*Department* means the Secretary of the Treasury or a designee authorized to exercise the Secretary's authority with respect to Federal Benefit Payments under the Act.

*Participant* means an individual who is or may become eligible to receive a benefit under the Police and Firefighters Plan or the Teachers Plan based on credit for service accrued as of June 30, 1997, or under the Judges

Plan, or whose beneficiaries may be eligible to receive any such benefit.

### § 29.403 Applications filed with the Benefits Administrator.

All claimants for Federal Benefit Payments must file applications for benefits (including applications for retirement, refunds of contributions, and death benefits) with the Benefits Administrator.

### § 29.404 Initial benefit determinations and reconsideration by the Benefits Administrator.

(a) *Initial benefit determinations.* The Benefits Administrator will process applications for Federal Benefit Payments and determine the eligibility for and the amount and form of Federal Benefit Payments. All initial benefit determination decisions which may reasonably be construed as a denial (in whole or part) of a claim for Federal Benefit Payments must be in writing, must advise claimants of their right to request reconsideration under paragraph (b), of this section and must state the time limits applicable to such a request.

(b) *Claimant's right to reconsideration of benefit denials.* (1) Except as provided in paragraph (b)(2) of this section, claimants who disagree with the amount or form of a Federal Benefit Payment determination and wish to contest the determination must first request the Benefits Administrator to reconsider its determination.

(2) A decision to collect a debt is not a denial of a benefit claim under this section.

(c) *Form and timing of requests for reconsideration.* (1) A request for reconsideration must be in writing, must include the claimant's name, address, date of birth and claim number, if applicable, and must state the basis for the request.

(2) A request for reconsideration must be received by the Benefits Administrator within 30 calendar days from the date of the written notice of the initial benefit determination.

(d) *Reconsideration decisions.* A reconsideration decision by the Benefits Administrator denying (in whole or part) a claim for a Federal Benefit Payment must—

## § 29.405

- (1) Be in writing;
- (2) Provide adequate notice of such denial, setting forth the specific reason for the denial in a manner calculated to be understood by the average participant; and
- (3) Provide notice of the right to appeal the Benefit Administrator's decision to the Department, the address to which such an appeal must be submitted, and the time limits applicable to such an appeal.

(e) *Appeal of reconsideration decisions.* The Department will review an appeal of a reconsideration decision under § 29.405.

### § 29.405 Appeals to the Department.

(a) *Who may file.* Any claimant whose claim for a Federal Benefit Payment has been denied (in whole or part) by the Benefits Administrator in a reconsideration decision under § 29.404(d) may appeal that decision to the Department.

(b) *Form of appeal.* An appeal must be in writing, must include the claimant's name, address, date of birth and claim number, if applicable, and must state the basis for the appeal.

(c) *Time limits on Appeals.* (1) An appeal must be received by the Department within 30 calendar days from the date of the reconsideration decision under § 29.404(d).

(2) The Department may extend the time limit for filing when the claimant shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit, or for other good and sufficient reason.

(d) *Final decision.* After consideration of the appeal, the Department will issue a final decision. The Department's decision must be in writing, must fully set forth the Department's findings and conclusions on the appeal, and must contain notice of the right to judicial review provided in § 29.406. Copies of the final decision must be sent to the claimant seeking appeal, to any competing claimants (see § 29.407) and to the Benefits Administrator.

## 31 CFR Subtitle A (7-1-04 Edition)

### § 29.406 Judicial review.

An individual whose claim for a Federal Benefit Payment has been denied (in whole or part) in a final decision by the Department under § 29.405 may, within 180 days of the date of the final decision, file a civil action in the United States District Court for the District of Columbia. Any such civil action must be filed in accordance with the rules of that court.

### § 29.407 Competing claimants.

(a) *Competing claimants* are applicants for survivor benefits based on the service of a participant when—

(1) A benefit is payable based on the service of the participant;

(2) Two or more claimants have applied for benefits based on the service of the participant; and

(3) A decision in favor of one claimant will adversely affect another claimant(s).

(b)(1) When a competing claimant files a request for reconsideration under this section, the other competing claimants shall be notified of the request and given an opportunity to submit written substantiation of their claim.

(2) When the Benefits Administrator receives an application from a competing claimant(s) before any payments are made based upon the service of the participant, and an initial determination of benefits in favor of one claimant adversely affects another claimant, all known claimants concerned will be notified in writing of that decision and those adversely affected will be given an opportunity to request reconsideration under the procedures and time limitations set forth in § 29.404(c). The Benefits Administrator must not execute its decision until the time limit for filing a request for reconsideration has expired, or, if a reconsideration decision is made, until the time limit for filing an appeal to the Department has expired or the Department has issued a final decision on a timely appeal, whichever is later.

(3) When the Benefits Administrator does not receive an application from a competing claimant(s) until after another person has begun to receive payments based upon the service of the